

Resolution No. _____ - _____

**STREAMSIDE PROTECTION STANDARDS AND PERMITTING PROCESS FOR MADISON
COUNTY WATERWAYS WITHIN THE MADISON RIVER WATERSHED**

Section 1. Purpose
Section 2. Authority
Section 3. Definitions
Section 4. Jurisdictional Area and Compliance
Section 5. General Standards
Section 6. Permitting Process
Section 7. Exceptions and Special Conditions and Rights of Property Owners
Section 8. Variances and Appeals
Section 9. Enforcement
Section 10. Penalties
Section 11. Severability

Section 1. Purpose

These regulations are intended to protect the riparian resources, floodplain, water quality, and fish and wildlife habitat of Madison County waterways within the Madison River watershed, to maintain property rights and values through the use of standardized, science-based restrictions on placement of new buildings within the jurisdictional area, and to provide for the public health and safety of the residents of Madison County.

Section 2. Authority

The zoning authority of the Board of Madison County Commissioners and their ability to make and enforce rules are broadly described in 76-2, MCA.

The Madison Valley Growth Management Action Plan, adopted on May 30, 2007, in support of the guiding principles identified in the Madison County Growth Policy adopted September 22, 2006, specifically recommends the “use of building setbacks to protect rivers and streams” including “land not subject to subdivision review.”

Section 3. Definitions

Term	Definition
Administrative Variance	A variance reviewed and approved, approved with conditions, or denied by staff.
Aggrieved Person or Party	A person or party who can demonstrate a specific personal and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.
Bank	Streambank; the sides of a channel that hold or carry water.
BOA	Board of Adjustment
Board of Adjustment	A board appointed by the governing body to hear and decide appeals and special exceptions to the terms of these regulations in harmony with their general purposes and intent and in accordance with statute.
Board of Madison County Commissioners	Governing body of Madison County.

Term	Definition
Building	A structure having a roof supported by walls or columns or other supports, intended for the shelter or enclosure of person, animals, or moveable property.
Building Setback	<i>See Setback</i>
Critical habitat	Area(s) generally considered by an appropriate state, county or federal resource management agency as essential for the conservation of a species and that may require special management and protection.
Development Plan	A detailed site plan and narrative describing activities to occur on a parcel of land, including building and structure locations and management practices to be followed.
Ephemeral Drainageway	A drainageway that flows only in response to precipitation in the immediate watershed or in response to the melting of snow or ice and is always above the local water table.(82-4-203, MCA)
Fixed Streamside Buffer Area	<i>See Streamside Buffer Area</i>
Governing Body	Board of Madison County Commissioners.
Hydrophilic	Characterized as requiring ample water or moisture. (Alternate term – hydric).
Intermittent Stream	A stream or reach of a stream that is below the water table for at least some part of the year and that obtains its flow from both ground water discharge and surface runoff. (MCA 82-4-203)
Madison River Watershed	A north-flowing, naturally drained area that supplies water to the Madison River with boundaries defined by the Madison Mountain Range on the east, the Gravelly Range and south end of the Tobacco Root Mountains on the west, the Continental Divide to the south and the Missouri River to the north. These regulations apply to property within the jurisdiction of Madison County only.
OHM	Ordinary high water mark.
Ordinary High Water Mark	The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to, deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water marks (23-2-301, MCA).
Perennial Stream	A stream that historically has flowed continuously during all seasons of the year, during dry as well as wet years.
Pre-existing Building	A structure (building) located or permitted by other county regulations within the streamside buffer area before the adoption date of these regulations.
Pre-existing Lot	A parcel of land or subdivision lot legally created before the adoption date of these regulations.
Procedural Variance	A variance or special exception request reviewed and acted upon by the Board of Adjustment, who may approve, approve with conditions, or deny the request.
Project	Building construction or alteration activity.

Term	Definition
Riparian Area	The banks and adjacent areas of perennial and intermittent streams whose waters provide a more moist habitat than that of adjacent uplands. Riparian areas have: (1) distinctively different vegetative species than adjacent areas; and/or (2) species similar to adjacent areas but exhibiting more vigorous or robust growth forms. They are considered transitional areas between aquatic and upland habitats. Riparian vegetation is associated with the natural presence of surface waters, rather than manmade practices such as irrigation.
Riverbank Stability Area	That area from the top of the stream banks to the water's edge covered by all types of vegetation that reduces erosion and floodwater velocity, while supporting bank shear strength and stream channel morphology.
Secondary Streamside Buffer Area	An area intended to provide additional protection where significant environmental conditions relating to riparian resources, floodplain, water quality and fish and wildlife habitat are readily apparent on the property.
Setback	The minimum distance that a building may be located from a stream.
Stream	A natural watercourse of perceptible extent, its bed and its immediate banks that confines and conducts continuously or intermittently flowing water. This excludes man-made irrigation and drainage structures. (See <i>Ephemeral Drainageway, Intermittent Stream, and Perennial Stream</i>).
Streamside Buffer Area	The area from the ordinary high water mark where all indigenous vegetation, rocks, soil and topography remain undisturbed except for actions needed to maintain the health of the stream corridor.
Streamside Protection Permit	A permit establishing a building distance from a regulated stream, issued per these regulations.
Structure	Anything constructed or erected.
Transition Area	The area between the streamside buffer area and the building setback where non-building uses are permitted.
Upland Habitat	Habitat higher in elevation than the riparian and instream habitat zones with non-hydrophilic plants.
Variance	Permission to deviate from the literal standards of these regulations because of special circumstances related to a specific property. (See <i>Administrative Variance, Procedural Variance</i>).
Watershed	A geographic area in which water, sediments, and dissolved materials drain to a common outlet – a point on a larger stream, a lake, an underlying aquifer, an estuary, or an ocean. The area is also called the drainage basin of the receiving water body.
Waterway	A watercourse in which water flows either continuously or intermittently and has a definite channel, bed, or bank.

Section 4. Jurisdictional Area and Compliance

As shown in Exhibit A, Planning Area , these regulations shall apply to all property within 500 feet of the Madison River, and 150 feet of all other waterways within the Madison River watershed, within Madison County. The named streams are listed in Exhibit B.

Streamside buffer areas pertain to all building and prohibited activities within the jurisdictional area, unless specifically allowed by the exceptions described in Section 7, Exceptions and Special Conditions and Rights of Property Owners. No building shall be located, extended, or structurally altered without full compliance with the terms of these regulations.

Section 5. General Standards

All building activity within the jurisdictional area will be reviewed by the County Planning Office for compliance with the following criteria:

- A. Setbacks established through the subdivision process.
- B. Fixed streamside buffer area of:
 - 1. 150 feet from the ordinary high water mark of the Madison River, and
 - 2. 100 feet from the ordinary high water mark of all other regulated waterways.

The streamside buffer area is intended to be an undisturbed area adjacent to a regulated waterway. The primary functions of the streamside buffer area are to provide a continuous corridor of indigenous habitat and serve as a contaminant filter and erosion control barrier to maintain water quality.

Prohibited activities within the streamside buffer area include:

- 1. All building activity, unless specifically allowed under Section 7 Exceptions and Special Conditions and Rights of Property Owners, or by Section 8 Variances and Appeals.
- 2. Removal of vegetation.
- 3. Introduction of non-native plant species. In the absence of native vegetation due to site conditions associated with prior land use activities, reestablishment of native vegetation is encouraged. Refer to Exhibit C, Streamside Development Impact Assessment, for examples of dominant vegetation types.

- C. Secondary streamside buffer area.

The secondary streamside buffer area is intended to provide additional protection where significant environmental conditions relating to fish and wildlife, riparian habitat, and water quality are readily apparent on the property. A secondary streamside buffer area shall be established where any one of the Section 5.C. Section 6.A.1-Section 6.A.3 criteria exist, subject to Section 7 of these regulations. In many situations the fixed streamside buffer area will provide adequate resource protection, thereby negating the need for a secondary streamside buffer area.

A secondary streamside buffer area, in addition to and adjacent to the fixed streamside buffer area, will be required to mitigate site-specific impacts to the following resources and/or conditions:

- 1. Critical riparian systems or fish and wildlife habitat as defined in Exhibit C.
- 2. Natural slopes greater than 25% grade
- 3. Unstable soil types, as defined by the current USDA Soil Survey Data as defined in Exhibit C.

Prohibited activities within the secondary streamside buffer area are the same as those identified for the primary streamside buffer area (Section 5.B).

D. Building setback and transition area

The building setback is the minimum distance from the stream to a building. The area between the streamside buffer area and the building setback is known as the transition area. Non-building uses in the transition area are permitted. The building setback distances are:

3. 300 feet from the ordinary high water mark of the Madison River, and
4. 125 feet from the ordinary high water mark of all other regulated waterways.

E. Compliance with state and local sanitation and water quality standards (Title 7, Chapter 13; Title 75, Chapters 5 and 6; Title 76, Chapter 4, MCA).

F. Compliance with local, state, and federal floodplain regulations and other applicable Ordinances.

The streamside buffer area, building setback and jurisdiction are shown in Figure 1 - General Standards.

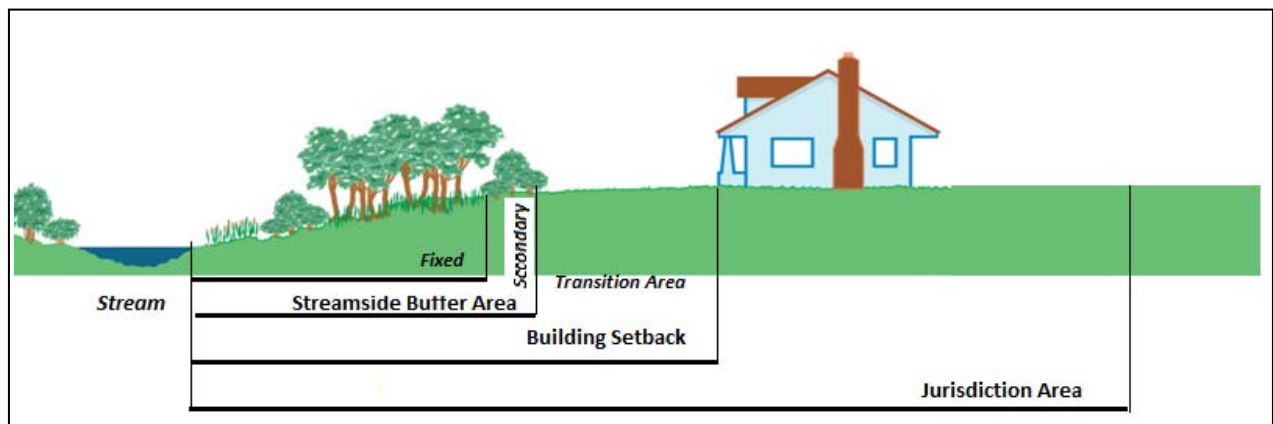


Figure 1 - General Standards

Section 6. Permitting Process

Prior to initiating any building construction or alteration activity within the jurisdictional area of these regulations, the property owner must apply for a Streamside Protection Development Permit from the County Planning Office. Applications shall be submitted, reviewed, and acted upon as follows:

- A. The permit application shall be submitted to the County Planning Office. The permit application shall be made on a form supplied by the county and shall be accompanied by a permit review fee, if any, as established by regulations adopted by the Board of Madison County Commissioners.
- B. The County Planning Director will review the application for compliance with these regulations.
- C. The Planning Director may consult with pertinent county, state, and federal agencies during permit review, including the County Sanitarian, County

Floodplain Administrator, local Conservation District, Montana Department of Environmental Quality (DEQ), Montana Department of Fish, Wildlife, and Parks (FWP), US Forest Service, Bureau of Land Management, USDA Natural Resources and Conservation Service (NRCS), and/or Montana Department of Natural Resources and Conservation (DNRC).

- D. The applicant shall allow county, state, and federal representatives to visit the site as a part of their review to determine the presence of environmentally significant resources or conditions.
- E. The Planning Director may determine that an independent professional engineering or environmental analysis is needed. When such analysis is required, the applicant/property owner shall be required to pay all independent professional fees. Application review shall be suspended until the independent findings are submitted and accepted by the Planning Director.
- F. Within 30 days of receipt of a complete application, including agency comments and independent findings, if required, the Director shall approve, conditionally approve, or deny the permit.
 - 1. If approved, a permit shall be issued within five (5) working days and mailed, with the written notice of approval, to the applicant at the address given on the application.
 - 2. If denied, within five (5) working days a written notice of the denial with an explanation of the basis for the denial shall be mailed to the applicant at the address given on the application.
 - 3. If conditionally approved, within five (5) working days a written notice detailing the conditions of approval shall be mailed to the applicant at the address given on the application. Within one year, the applicant must submit to the Planning Director a detailed development plan addressing all conditions of approval, in accordance with Exhibit D, Development Plan.
 - 4. The Planning Director shall have 30 days to review the revised Plan for completeness, prior to the County's issuance of the permit.
- G. In the event of a decision to deny or conditionally approve the permit, the applicant may appeal this administrative decision according to Section 8.
- H. The permit is valid for three years from the date of approval. Once the terms of the permit have been satisfied, the applicant must contact the County Planning Office to schedule a compliance site inspection.
- I. The applicant may request a one year extension to the permit.

Section 7. Exceptions and Special Conditions and Rights of Property Owners

Exceptions and special conditions have been identified to ensure that legally created lots would remain buildable under these regulations. Where adjustments in distances are needed to ensure there is a buildable area that minimizes overall disturbance, the adjustments are to be considered in this order: building setback, transition area, secondary streamside buffer area, then fixed streamside buffer area.

A. Exceptions

Streamside buffer areas, transition areas and building setbacks pertain to all building construction or alteration activities unless specifically allowed by exception under this section. A site inspection by the County Planning Director may be required to determine eligibility for the following exceptions:

1. The owner of a pre-existing building has the right to keep it where it is located prior to these regulations.
2. The owner of a pre-existing building has the right to rebuild, remodel, or expand so long as the building as changed is no closer to a regulated stream or river than the original building.
3. The owner of a building site fronting on an ephemeral drainageway is not affected by these regulations.
4. The owner of a building site where setback boundaries and/or building envelopes were established and approved by prior subdivision review processes, including variances, is not affected by these regulations.
5. Fencing used to exclude domestic livestock from riparian areas is not affected by these regulations.
6. Irrigation structures are not affected by these regulations.
7. Stream restoration projects.
8. All these rights are transferable.

B. Special Conditions

Recognizing the difficulty of applying one set of specific standards to diverse and dynamic riparian systems, the following special conditions have been recognized as subject to variance consideration. Where the right of property owner to build a structure on pre-existing lot necessitates a decrease in the streamside buffer area, transition area, or building setback, the following guides apply for making a request for an administrative variance.

1. Decreases in Streamside Buffer Areas and/or Building Setbacks
 - a. The owner of a lot shows that there is only one practical building site and that this site requires reduction in the streamside buffer area. The owner has the right to submit a variance request to reduce the streamside buffer area and/or building setback being careful to avoid unnecessary site disturbance.

- b. The owner of a lot (flat grade) shows that compliance with the streamside buffer area and/or building setback results in a lot where that streamside buffer area is more than 50% of the lot depth. The owner has the right to submit a variance request to reduce the streamside buffer area and/or building setback being careful to avoid unnecessary site disturbance.
 - c. The owner of a lot (flat grade) shows that compliance with the streamside buffer area and/or building setback results in a lot where building site is less than 50% of the lot depth from a major highway. The owner has the right to submit a variance request to reduce the streamside buffer area and/or building setback being careful to avoid unnecessary site disturbance.
 - d. The owner of a lot (cliff-side boundary) shows elevation changes between the water and the land to be developed are substantial resulting in a separate upland habitat at least 25 feet higher with slopes greater than 25%. The owner has the right to submit a variance request to reduce the streamside buffer area and/or building setback being careful to avoid unnecessary site disturbance.
2. Secondary streamside buffer area may be reduced to accommodate the preferred building site on a property as long as the overall intent of these regulations is not compromised. Under the following circumstance, a procedural variance supported by a development plan may be issued per Section 8.

Low impact development – A development plan, supported by rigorous implementation of engineering, design, and construction concepts, supported by best management practices, that more effectively protects the streamside environment.

3. Increases in Setback
- a. Prevailing county, state, and federal public health and safety regulations associated with subdivision review, sanitation, water quality, and flood control and channel migration take precedent over these regulations, and may necessitate a wider building setback than required by these regulations.
 - b. Lots which have a setback established through the subdivision process shall take precedence over the streamside buffer areas in these regulations.

Section 8. Variances and Appeals

Review fees for variances and appeals, if any, shall be established by resolution adopted by the Board of Madison County Commissioners.

A. Administrative Variance

Upon request of the applicant, the Planning Director will consider an administrative variance to these regulations in support of the Special Conditions and Rights of Property Owners described in Section 7. The request shall

include the variance review fee (if any), complete application, development plan as described in Exhibit D, and a narrative addressing the judicially-established review criteria for the granting of variances:

1. The variance would not be contrary to public interest.
2. Literal enforcement of these regulations would result in an unnecessary hardship owing to conditions unique to the property.
3. The spirit of these regulations would be observed and substantial justice done.

The Planning Director will make a decision within thirty (30) days approving, approving with conditions, or denying the variance request. This time may be extended upon written agreement by the applicant. Written notice of the decision including the basis for the decision shall be mailed to the applicant. In the event of approval with conditions, the applicant must submit a revised plan addressing all conditional requirements within one year of date of the written notice prior to the County's issuance of the permit. The one year period for addressing the conditional requirements may be extended one additional year at the written request of the applicant. The applicant may appeal this decision per Section 8.B.

B. Procedural Variance or Appeal to Board of Adjustment

Appeals to orders, requirements, decisions or determinations made by the Planning Director, including a decision to approve with conditions or deny a permit or administrative variance and requests for procedural variances are heard by the Board of Adjustment (BOA).

1. The powers of Board of Adjustment (BOA) described in 76-2-223, MCA are:
 - a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of these regulations;
 - b. To hear and decide special exceptions identified in these regulations;
 - c. To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship and so that the spirit of these regulations shall be observed substantial justice done.
2. In exercising its powers, the BOA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, as described in 76-2-223(2) MCA.

C. Board of Adjustment Process

1. The following aggrieved parties may appeal a permit decision:
 - a. The property owner requesting a permit.

- b. A property owner with a property boundary contiguous to the tract containing the proposed building site.
 - c. Any aggrieved person or party as described in 76-2-226, MCA.
2. Procedural variances and appeals to the Board of Adjustment (BOA) shall be submitted, reviewed, and acted upon as follows:
- a. A procedural variance application or appeal may be made within thirty (30) days of the date of the written notice of the Planning Director's decision. The application shall include: variance review/appeals fee (if any); the original permit application, including the findings of any required independent professional review; the notice of the order, decision, determination, requirement made by the Planning Director; a development plan prepared in accordance with Exhibit D; and a narrative addressing the three review criteria:
 - i. The variance would not be contrary to public interest.
 - ii. Literal enforcement of these regulations would result in an unnecessary hardship owing to conditions unique to the property.
 - iii. The spirit of these regulations would be observed and substantial justice done.
 - b. Upon receipt of eight (8) copies of the complete appeal and applicable fee, the Planning Director shall schedule a hearing before the BOA within forty-five (45) days of receiving the complete appeal. A legal notice of the hearing will be placed in the newspaper of general circulation in the county. Said notice must appear not less than 15 days prior to the public hearing and run two consecutive weeks. The applicant shall post a notice of the proposed variance request and the public hearing in at least one conspicuous place readily observable by the public on the property boundary.
 - c. The Planning Director shall distribute copies of the appeal to the BOA, the County Sanitarian and County Floodplain Administrator.
 - d. The governing body or its designated agent(s) or agency may conduct such investigations, examinations, and site evaluations as deemed necessary to verify information supplied as a requirement of these regulations. The submission of application materials shall constitute a grant of permission to enter the subject property. However, landowners or their representatives will be notified in advance of any county-sponsored field inspection, and inspections will be carried out at a reasonable time.
 - e. One week prior to the public hearing, the Planning Director shall prepare a "Written Findings of Fact" based on the application information, agency input, and three variance review criteria and distribute it to the applicant and the BOA members.

- f. At the public hearing, the BOA will accept testimony from persons interested in the variance, the applicant and/or their attorney, and the Planning Director. The BOA shall review the variance application based on the three review criteria and the Special Conditions criteria specified in B and Section 8. The BOA shall consider any mitigation measures proposed by the applicant in the development plan.
- g. The BOA may consult with pertinent local, county, state, and federal agencies during its review of the variance application. If the initial permitting process did not include an independent professional review, such review may be required. When such review is required, the applicant shall be required to pay all independent professional review fees.
- h. If the BOA determines that additional information vital to a complete and thorough review of the appeal is needed, the review process will halt, to restart at Section 8.C.2.b. upon submittal of the requested information.
- i. Following testimony and BOA discussion, the BOA will make findings supporting their decision and approve, approve with conditions, or deny the appeal.
- j. Written notice of the BOA decision shall be mailed to the applicant by the Planning Director within ten (10) days of the BOA decision. The notice shall include an explanation of the basis for the BOA decision.

D. Appeals to District Court

Those aggrieved by a decision of the Board of Adjustment may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days of the date the written notification of the decision made by the BOA at a public meeting is mailed to the appellant.

Section 9. Enforcement

A written and signed complaint describing the alleged violation and submitted to the planning office or governing body by a concerned citizen is sufficient basis to prompt a compliance check. In the event a suspected violation of these regulations is reported to the County Planning Office, the applicant and/or the landowner will be contacted by the County Planning Director to schedule a compliance inspection. The results of the inspection will be sent in writing to the landowner and the complainant. If a violation is confirmed, the permit may be revoked or amended, and/or penalties assessed according to Section 10. Penalties.

Enforcement of these regulations will be done in accordance with MCA 76-2-210.

- A. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the county, in addition to other remedies, may institute any appropriate action or proceedings to:

1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
 2. Restrain, correct, or abate a violation;
 3. Prevent the occupancy of the building, structure, or land; or
 4. Prevent any illegal act, conduct, business, or use in or near the premises.
- B. For the purposes of enforcing Section 9.A.1.a-c, the county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation.

Section 10. Penalties

Any person, firm, or corporation that violates the provisions of these regulations shall be guilty of a misdemeanor and punishable by a fine of up to \$500 and/or a jail term of not greater than six months, or other maximum as defined by law. In addition, the court shall order that the site be brought into compliance.

Section 11. Severability

If any part or portions of these regulations shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

These standards shall be construed to be consistent with any federal or state regulations which pre-empt or take precedence over the standards herein. In the event that either the federal or state government adopt standards more stringent than those described herein, the more stringent standards shall apply.

Exhibit A. Planning Area (Madison/West Fork of the Madison Watersheds. Jefferson watershed is not included)

Exhibit B. Named Streams

This is a non-comprehensive list of named perennial and intermittent streams within the planning area, classified by name and drainage. These regulations apply to named and unnamed perennial and intermittent streams within the planning area. These regulations do not apply to streams inside incorporated towns.

Madison River Drainage (within Madison County, from Quake Lake to Black's Ford)	
Alpine Creek	Deadman Creek
Antelope Cr	Deer Creek
Arasta Creek	Dry Hollow
Aspen Creek	East Fork Pole Creek
Aurora Creek	East Hammond Creek
Bad Luck Creek	Eightmile Creek
Barn Creek	Elk Creek
Bear Creek	English George Creek, S. Fork
Bear Trap Creek	English George Creek
Birch Creek	Fall Creek
Blaine Spring Creek	Fletcher Channel
Bobcat Creek	Fletcher Creek
Boulder Creek	Frieler Creek
Bradley Creek	Gorge Creek
Buffalo Creek	Grindstone Gulch
Burger Creek	Haypress Creek
Burnt Creek	Horn Creek
Butte Creek	Horse Creek
Cameron Creek	Hot Springs Creek
Camp Creek	Hyde Creek
Canyon Gulch	Indian Creek
Carpenter Creek	Jack Creek
Cedar Creek	Jackpine Gulch
Cherry Creek	Johnny Gulch
Cherry Creek, S. Fork	Jordan Creek
Cherry Creek, W. Fork	Leonard Creek
Cherry Creek, E. Fork	Levi Creek
Cherry Gulch	Little Mile Creek
Circle Creek	Lost Mine Canyon
Cold Spring Creek	Mcatee Creek
Corral Creek	Mcdeed Creek
Cougar Creek	Middle Fork Bear Creek
Crooked Creek	Middle Fork Hot Springs Creek
Curlew Creek	Middle Fork Pole Creek
Curley Bill Creek	Middle Fork Squaw Creek
Daisy Creek	Mile Creek

Madison River Drainage (within Madison County, from Quake Lake to Black's Ford)	
Mill Creek	South Fork Hot Springs Creek
Moonlight Creek	South Fork Hyde Creek
Moore's Creek	South Fork Indian Creek
Moose Creek	South Fork Jack Creek
Moran Creek	South Fork Ruby Creek
Morgan Gulch	South Fork Squaw Creek
Nickerson Creek	South Meadow Creek
No Man Creek	Spring Branch
North Fork Bear Creek	Spring Creek
North Fork Squaw Creek	Squaw Creek
North Fork Wall Creek	Standard Creek
North Fork Wigwam Creek	Stock Creek
North Meadow Creek	Sunk Creek
Odell Creek	Sunrise Gulch
Papoose Creek	Sweden Creek
Parker Creek	Three Dollar Creek
Pole Creek	Tolman Creek
Pony Gulch	Trail Creek
Postlewaite Creek	Trout Creek
Quaking Aspen Creek	Wall Creek
Raw Liver Creek	Washington Creek
Rock Creek	Watkins Creek
Ruby Creek	Well Gulch
Saint Joe Creek	West Fork Pole Creek
Saw Log Creek	West Hammond Creek
Shedhorn Creek	Wickiup Creek
Sheep Creek	Wigwam Creek
Shell Creek	Wolf Creek
Short Creek	Wolverine Creek
Slade Creek	Woods Creek
Slim Sam Creek	

West Fork of the Madison River Drainage (entire watershed)	
Bennett Creek	Hell Roaring Creek
Bogus Creek	Indian Springs Creek
Buford Creek	Lake Creek
Cascade Creek	Lobo Creek
Dirty Creek	Meridan Creek
Elk River	Nelson Creek
Little Elk River	Portal Creek
Fossil Creek	Rossiter Creek
Freezeout Creek	Soap Creek
Gazelle Creek	Teepee Creek

Exhibit C. Streamside Development Impact Assessment

Per Section 5.C. of these regulations, a secondary setback, in addition to and adjacent to the fixed streamside buffer area, will be required to mitigate site-specific impacts to the following resources and/or conditions:

1. Critical riparian resources, floodplain, water quality and fish and wildlife habitat as identified by existing data and/or input received from resource management professionals.
2. Natural slopes >25% as determined by site inspection or survey data.
3. Unstable soil types as defined by the current USDA Soil Survey of Madison County Area, Montana .

A site specific assessment will evaluate the impacts of the proposed development on the streamside environment and determine the need for a secondary variable-width setback. This assessment will be based on existing field data; i.e. technical reports, aerial photographs, maps, and surveys; input from public and private resource management professionals; and when deemed necessary, a site inspection by planning office staff.

At the discretion of the County Planning Director, local, state, and federal agencies may be contacted by the planning office to review and comment on the potential impacts of a project. The agency representative will be provided with project information, invited to visit the site, and asked to comment within 20 days.

The attached compliance checklist is intended as a guide to ensure collection of complete, consistent, and accurate data.

Streamside Protection Area Compliance Checklist

The permit compliance official must complete the following checklist to document current site conditions.

Project Name: _____

Project Location: _____

Property Owner Name: _____

Prepared by: _____ Date: _____

Others present: _____

Name(s) of stream(s) present on impacted property:

General description of the impacted property:

General Instructions

1. Upon submission of a streamside development permit application, the Planning Director will use the compliance checklist to review the application for completeness. Existing technical materials, including aerial photos, surveys, GIS maps, resource assessments, etc. will be referenced for information.
2. If the Planning Director determines that the application information is insufficient to evaluate the impacts of the proposed development, additional information may be requested, and/or a field inspection scheduled with the property owner or property owner representative, and planning office staff. At the discretion of the Planning Director representatives of other county departments and state and federal agencies may be asked to participate in the field inspection.
3. During the field inspection, planning office staff will use the checklist to document existing conditions.
4. Digital photos of the building site and its relationship to potentially impacted streams will be taken during the field inspection.

Within 30 days of application submittal, the Planning Director will send to the applicant a staff report including a general description of the site conditions, a narrative evaluating potential site impacts based on these regulations, and a recommendation of approval, or approval with conditions, or denial of the streamside development permit. Mitigation strategies will be identified, if needed.

STREAMSIDE PROTECTION AREA – COMPLIANCE CHECKLIST

FORM 1 – BUILDING SITE STREAMSIDE CONDITIONS		
Criteria	Qualifiers	
1. Horizontal distance (feet) from proposed building site to stream (OHM)		
2. Vertical distance (feet) from building site to stream surface		
3. Depth (feet) to groundwater at building site	Area well log data	
4. Evidence of surface water ponding	Present/Absent	
5. Evidence of wetlands	Present/Absent	
6. Condition of stream bank in front of building site	Stable/Unstable	
7. Type(s) of predominant vegetation	Grass, Forbs, Shrub, Tree	
8. General health of predominant vegetation	Stressed, Viable, Actively reproducing	
9. General surface soil conditions	Clay, Sand, Gravel, Organic	
10. Evidence of erosion	Present/Absent	
11. Evidence of natural drainage swales	Present/Absent	
12. Site topography	Flat, Rolling, Rugged	
13. Slope of building site	Level (0-4%), Moderate (4- 15%) Steep (15-25%) Severe (<25%)	
14. Slope of land between building site and stream	Level (0-4%), Moderate (4- 15%) Steep (15-25%) Severe (<25%)	
15. Evidence of wildlife habitat		
16. Evidence of fish habitat		

[illegible]

Exhibit D. Development Plan

If construction will unavoidably impact important environmental resources, as defined in Exhibit C, the development plan must describe efforts to minimize disturbance and reclaim damaged areas. The development plan will incorporate the Montana Department of Environmental Quality's (DEQ) Best Management Practices (BMPs) for Stormwater Control and the recommendations of the Madison Conservation District and local Montana FWP representatives.

Materials required must reasonably represent and include:

- A. Site photos
- B. Topographical map at a scale that accurately and clearly represents ground features in the vicinity of proposed structure. Proposed structure must be located on the map, and existing structures on the subject site and adjacent riverfront properties (one-half mile upstream and downstream) must be identified.
- C. Scaled sketch plan of the property indicating location of:
 - 1. Building footprint
 - 2. Outbuildings
 - 3. Building Envelope, if applicable
 - 4. Access roads
 - 5. Septic system with drain field
 - 6. Well
 - 7. Primary vegetation areas
 - 8. Stream's ordinary high water mark
 - 9. Wetlands
 - 10. Natural drainages
 - 11. Steep slope areas of more than 25% grade
 - 12. Flooding/stream migration
 - 13. Fish and/or wildlife habitat
- D. Project Narrative describing the following:
 - 1. Proposed building activity
 - a. Size of the building (sq. ft.)
 - b. Type of foundation
 - c. Construction materials
 - 2. Property and building site
 - a. Size of parcel (acres, sq. ft.)
 - b. General shape of the parcel
 - c. Average grade
 - d. General orientation of streams, access roads, natural drainages, major vegetation area, wetlands relative to the building site
 - e. Width of streams
 - f. Description of stream banks
 - g. Predominant vegetation types
 - h. Type of streams (perennial, intermittent)
 - 3. Potential Negative impacts
 - 4. Potential positive impacts
 - 5. Mitigation options

- a. Best Management Practices
 - b. Revegetation plan
 - c. Conservation areas, besides streamside buffer areas
- 6. Enhancement opportunities
- E. Copies of other land use permits that affect the property (310 permits, floodplain permits, 404 (wetlands) permits, septic permits, etc.)

Sample – Streamside Protection Permit Application
STREAMSIDE PROTECTION DEVELOPMENT

PERMIT APPLICATION FORM

Submit To:

Madison County Planning Office
205 N. Broadway.
P.O. Box 278 Virginia City, MT 59755

Telephone: (406) 843-5250
Fax: (406) 843-5229

Applicant: _____
Site Address: _____
Section: _____ Township: _____ Range: _____
Subdivision/COS: _____ Block: _____ Lot/Tract: _____
Other legal description: _____
Geocode # 25 - _____ - _____ - _____ - _____ - _____ - _____ - _____
 ## ##### ## # ## ## #####

CONTACT INFORMATION – PROPERTY OWNER	
Name	
Address	
Daytime Phone:	Fax:
E-mail:	Mobile Phone:
CONTACT INFORMATION – APPLICANT	
Applicant Name	
Applicant Address	
Daytime Phone:	Fax:
E-mail:	Mobile Phone:

—AGREEMENT— The undersigned hereby certifies that the information submitted in this application is true and correct; and that the proposed work shall be done in accordance with the plans and specifications submitted in this application and in compliance with the requirements of the applicable regulations.	
Applicant's signature	Date

Madison County will complete the information below.

Permit Application is:

☐ Approved ☐ Conditionally Approved ☐ Denied

Madison County Planner

Date

If Conditionally Approved, Development Plan has been submitted and all conditions have been met.

Madison County Planner

Date

Streamside Protection Development Permit #: _____

****Additional information/checkboxes may be needed. Intent is to eliminate duplicating information.***

Attach the Following Items:

- ☐ Exhibit C – Completed Streamside Development Impact Assessment
- ☐ Exhibit D – Development Plan
- ☐ Exhibit D – Development Plan Attachments
 - Site photos
 - Topographical map at a scale that accurately represents ground features
 - Scaled sketch plan of the property
 - Project Narrative
 - Copies of other land use permits that affect the property (310 permits, floodplain permits, 404 (wetlands) permits, septic permits, etc.)
- ☐ Topographical map at a scale that accurately and clearly represents ground features in the vicinity of proposed structure. Proposed structure must be located on the map, and existing structures on the subject site and adjacent riverfront properties (one-half mile upstream and downstream) must be identified.
- ☐ Description of riverbank condition and vegetation between riverbank and proposed structure (**photos are helpful**).
- ☐ Verification that proposed structure has received all necessary sanitation, water, and floodplain approvals from local, state, and federal agencies.
 - Septic and/or Wastewater Treatment Permit # _____
 - Floodplain Permit # _____
 - Other required permits (e.g., 310, 404, right-of-way encroachment): _____